

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In the Matter:	:	
	:	Case No. 19-57687
Kenneth L Dickerson	:	
	:	
Debtor	:	Chapter 13
	:	
Kenneth L Dickerson	:	Judge Hopkins
1867 Jermain Dr	:	
Columbus, OH 43219-1225	:	Adv. Proc. No.
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
Carvana, LLC	:	
PO Box 29018	:	
Phoenix, AZ 85038	:	
	:	
	:	
and	:	
	:	
Bridgecrest Financial	:	
7300 E Hampton Ave	:	
Mesa, AZ 85209	:	
	:	
Defendants.	:	

COMPLAINT TO AVOID PREFERENCE

1. Plaintiff states that a petition for relief pursuant to Chapter 13 of The United States Bankruptcy Code was filed on November 29, 2019.
2. Plaintiff states this Court has jurisdiction to determine this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the general order of reference entered in this district. Debtor states that this is a core proceeding under 28 U.S.C. §157(b)(2)(I). Venue is proper under 28 U.S.C. § 1409(a).
3. Plaintiff brings this action under section 547(c)(3)(B) of the Bankruptcy Code and Bankruptcy Rule 7001(2) to avoid the preferential lien of Carvana, LLC against property of the debtor.
4. Plaintiff states that Carvana, LLC is the lienholder on his 2016 Buick Encore.
5. Plaintiff states that Bridgecrest Financial is the loan servicer for Carvana on this vehicle.
6. Plaintiff states that he purchased this 2016 Buick Enclave on August 29, 2019 and took possession on the same day.
7. Plaintiff states that Carvana, LLC perfected their lien on January 7, 2020 (Exhibit A) based on Carvana, LLC's own admission of their Proof of Claim #9 filed on January 7, 2020
8. Plaintiff states that this garnishment is an avoidable preference under 11 U.S.C. § 547(c)(3)(B).

9. Plaintiff states this perfecting this lien outside of 30 days after the Debtor took possession makes this an avoidable preference under 11 U.S.C. § 547.
10. Plaintiff states that the transfer was lien was obtained for or on account of an antecedent debt owed by the debtor to the Carvana, LLC.
11. Plaintiff states the lien was obtained by Carvana, LLC while the Debtor was insolvent under 11 U.S.C. § 547.
12. Plaintiff states the lien was all obtained within ninety days before the filing of the petition (Exhibit A).
13. Plaintiff states that allowing Carvana, LLC to keep their lien will enable them to receive more than 1) they would have received in this case. 2) if the transfer had not been obtained, and 3) Carvana, LLC received payment of such debt to extent provided by the provisions of 11 U.S.C. § 547(b).
14. Plaintiff states that they can avoid this transfer under 11 U.S.C. § 522(h) because the trustee could have avoided such a transfer under 11 U.S.C. § 547(b), and the trustee has not attempted to avoid this transfer.

WHEREFORE, the Debtor demands that:

1. For such further relief that the Court finds just and equitable.
2. That the debt to Carvana, LLC be treated as a non-priority unsecured debt.
3. That the lien be released within ten (10) days of an entry of an order in this case.

Respectfully submitted,

/s/ James W. Park
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June 9, 2020
Date